

## MILPITAS PLANNING COMMISSION AGENDA REPORT

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Category: Public Hearing

Report prepared by: Troy Fujimoto

Public Hearing: Yes:   X   No:       

Notices Mailed On: N/A

Published On: 5-31-03

Posted On: N/A

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**TITLE:** **AMENDMENT TO THE ZONING ORDINANCE TO CLARIFY WITH WHICH PRINCIPAL USES ACCESSORY MASSAGE SERVICES ARE ALLOWED IN THE CITY, AND A RELATED DRAFT NEGATIVE DECLARATION (P-ZT2003-2 & P-EA2003-6)**

**Proposal:** Proposed Ordinance No. 38.762-zoning code text amendment in regards to accessory massage uses citywide.

**Location:** Citywide

**RECOMMENDATION:** **Recommend to Council approval of the Negative Declaration (EIA NO. P-EA2003-6) and adoption of Ordinance No. 38.762 to amend the Zoning Ordinance (P-ZT2003-2) for accessory massage uses.**

**Applicant:** City Initiated

**Attachments:** Zoning Ordinance sections and CEQA Initial Study and Draft Negative Declaration

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### BACKGROUND

The city's massage establishments and practitioners code was adopted in 1972 among other things, this code primarily sets forth a separate Police Department permit process for massage services. Between 1972 and 1995 it was amended twice. In October 1994 in conjunction with the last massage code amendment, the City amended the zoning ordinance in regards to massage establishments in the Highway Services (HS) zoning district to limit the zones in the City where massage services as principal uses could be permitted.

The Municipal Code (Chapter 6 – Massage Establishments and Practitioners) recognizes that massage uses typically occur in conjunction with doctors offices (including but not limited to, surgeons, chiropractors, osteopaths, nurses, physical therapists and acupuncturists, when licensed), personal fitness centers, gymnasiums, athletic facilities and clubs, hospitals, nursing

homes, sanitariums and other healthcare facilities licensed by the State, accredited high schools, junior colleges, colleges and universities in association with coaches, and trainers and trainers of amateurs, semi-professional and professional athletes or athletic teams. These are all principal uses that customarily provide massage as an incidental part of operations. The massage code specifies which massage practitioners must obtain Police Department permit and which are exempt based on which of these primary uses they are associated with. Of particular note, is that the Chapter only exempts from permit requirements massage of the neck, face and/or scalp when associated with barbers, beauticians, cosmetologists, and any other healing art practitioners. No such distinction is made for massage that is performed in conjunction with the other principal uses mentioned.

Recent business license observations regarding accessory massage practitioners has led to initiation of improvements to the city's business license massage permit and zoning review procedures to tighten processes and regulations. An amendment to the massage code is scheduled for adoption at the June 17, 2003 City Council meeting. The proposed zoning code amendment more closely aligns the zoning code with the massage code and clearly sets forth what has been interpreted and enforced since 1994. The massage distinction for salons made in the massage code is proposed to be carried into the zoning code in this amendment. Thus, as has been restricted at the zoning review level over the past 9 years, the proposed zoning code amendment could codify salons, barber shops and healing art practitioners as being limited to offering massage of the head, neck and shoulders.

## **ENVIRONMENTAL REVIEW**

An Initial Study and Draft Negative Declaration were prepared for this project. The commenting period began on May 28, 2003 and will close on June 17, 2003. Staff has not received any comments in regards to the proposed zoning code amendments. The proposed zoning code amendments have the following impacts that are considered to be less than significant:

There would be a less than significant impact in regards to public facilities, as a result of the zoning code amendments, as it could impact the Police Department with an increase in massage applications. However, because the amendment is clarifying how the City currently processes massage applications, it will not impact police services. Thus, this can be considered a less than significant impact.

Any additional comments received will be presented at the Planning Commission hearing and any other comments received through June 17, 2003 will be presented at the City Council hearing.

## **RECOMMENDATION**

Close the Public Hearing. Recommend to Council approval of the Negative Declaration (EIA NO. P-EA2003-6) and adoption of Ordinance No. 38.762 to amend the Zoning Ordinance (P-ZT2003-2) for accessory massage uses.

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**REGULAR**

NUMBER: 38.762

TITLE: ORDINANCE ADDING A NEW SUBSECTION 54.21 TO TITLE XI, CHAPTER 10 ENTITLED "MASSAGE SERVICES AS ACCESSORY USES"

HISTORY: This ordinance was introduced (first reading) at a meeting of the City Council of the City of Milpitas on \_\_\_\_, 2003, upon motion by Councilmember \_\_\_\_, and was finally adopted (second reading) at a meeting of said Council on \_\_\_\_, 2003, upon motion by Councilmember \_\_\_\_\_. Said ordinance was duly passed and ordered published in accordance with the law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Gail Blalock, City Clerk

\_\_\_\_\_  
Jose Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven T. Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

Section 1. RECITALS AND FINDINGS

- A. Pursuant to Government Code section 65853 and 65854, the Planning Commission of the City of Milpitas held a properly noticed public hearing June 11, 2003 to consider the amendments to Title XI, Chapter 10 of the Milpitas Municipal Code. In accordance with Government Code section 65855, the Planning Commission has rendered a decision in the form of a written recommendation, which was presented to the City Council prior to consideration of this Ordinance.

B. Upon receipt of the Planning Commission's written recommendation, the City Council held a properly noticed public hearing on \_\_\_\_\_, 2003.

C. The City Council finds that this Ordinance does not render Title XI, Chapter 10 inconsistent with the City of Milpitas General Plan.

Section 2. Title XI, Chapter 10, Section 54 is hereby amended to add a new subsection 54.21 to read as follows:

"XI-10-54.21            Accessory Uses

In addition to those accessory uses specifically listed in the zoning district sections of this chapter, the following accessory uses shall be allowed:

XI-10-54.21            Massage Services

Massage services may be allowed as an accessory use to any permitted or conditionally permitted medical office, medical clinic, chiropractor practice, acupuncture practice, physical therapist, fitness and athletic facility, health care facilities (such as hospitals, nursing homes and sanitariums), and accredited school, college, and university. Massage services, limited to massage of the head, neck and shoulders, may be allowed as an accessory use to any permitted or conditionally permitted beauty salon, barbershop, and healing art practices. This section shall not exempt any person or business from complying with all the provisions of Title III, Chapter 6."

Section 3. *The Table of Contents* of Title XI Chapter (Planning, Zoning and Annexation of the City of Milpitas is hereby *amended* to reflect the new subsections as follows:

Zoning Ordinance Table of Contents

XI-10-1	The Zoning Plan
XI-10-2	Definitions
XI-10-3	Zoning Districts
XI-10-4	R1 Single-Family Residence District
XI-10-5	R1X Single-Family Estate District (Repealed)
XI-10-6	R2 One- and Two-Family Residence District
XI-10-7	R3 Multiple-Family Residence District
XI-10-8	R4 Multiple-Family Very High Density District
XI-10-9	AR Agricultural Residence District
XI-10-17	CO Administrative and Professional Office District
XI-10-18	C1 Neighborhood Commercial District
XI-10-19	C2 General Commercial District
XI-10-20	CS Commercial Service District (Repealed)

XI-10-21	HS Highway Service District
XI-10-22	TC Town Center District
XI-10-30	M1 Light Industrial District
XI-10-31	M2 Heavy Industrial District
XI-10-35	MP Industrial Park District
XI-10-38	MXD Mixed Use District
XI-10-39	POS Park and Public Open Space District
XI-10-40	A Agricultural District
XI-10-42	S Combining District (Site and Architectural review or S Zone)
XI-10-43	TOD Transit Oriented Development Combining District
XI-10-44	MHP Mobile Home Park Combining District
XI-10-45	H Hillside Combining District
XI-10-46	OO Gateway Office Overlay Combining District
XI-10-53	Off-Street Parking Regulations
XI-10-54	General Provisions
	Conformance with All Sections of Code
	Other Uses Permitted by Commission
	Improvement of Parking Areas, etc.
	Zoning of Annexed Areas
	Height Conformance
	Area Requirements
	Planned Unit Development
	Home Occupation
	Accessory Buildings and Patio Covers
	Geologic Hazard Zones
	Fences
	Homebuyer Awareness of General Plan
	Exemptions of certain Nonconforming Uses
	Mobile Home Development Standards
	Areas for Collecting and Loading Recyclable Materials
	Large Family Child Care Homes and Child Care Centers
	School Mitigation Impact Fees
	Adult Business Location Requirements
	Condominium Conversion
	Density Bonus for Affordable Housing Developments
	Accessory Uses
	Second family Units
XI-10-55	Exceptions
XI-10-56	Non-Conforming Buildings and Uses
XI-10-57	Conditional Use Permit
XI-10-58	Variances
XI-10-59	Certificate of Occupancy
XI-10-60	Boundaries of Districts
XI-10-61	Interpretation

XI-10-62	Amendments
XI-10-63	Enforcement and Penalty
XI-10-64	Notice and Appeal
XI-10-65	Procedural Rules for the Conduct of Hearings

Section 4.      PUBLICATION AND EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days after adoption, and prior to the expiration of 15 days from the passage thereof shall be published at least once in the Milpitas Post, a newspaper of general circulation, published and circulated in the City of Milpitas, County of Santa Clara, thenceforth and thereafter the same shall be in full force and effect.

Section 5.      SEVERABILITY

In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.



# CITY OF MILPITAS

Mailing Address: 455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479 • www.ci.milpitas.ca.gov  
Temporary Location: 1210 Great Mall Drive

## **NEGATIVE DECLARATION** **ENVIRONMENTAL IMPACT ASSESSMENT (EIA NO. P-EA2003-6)**

A NOTICE, PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970, AS AMENDED (PUBLIC RESOURCES CODE 21,000 ET SEQ.), THAT THE CITY OF MILPITAS WILL NOT HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT.

**Project Title:** Zone Text Amendment No. P-ZT2003-2, (Zoning Ordinance Amendment)

**Project Description:** The City proposes to amend the Zoning Ordinance to regulate and clarify massage uses in the following zoning districts; CO (Administrative and Professional Office), C1 (Neighborhood Commercial), C2 (General Commercial), HS (Highway Services), TC (Town Center), M1 (Light Industrial), M2 (Heavy Industrial), MP (Industrial Park), and MXD (Mixed Use). The ordinance amendment would clarify that massage uses would be an accessory use to office and professional office uses for doctors, acupuncturists, chiropractors, and the like. The amendment would also clarify that massage would be an accessory use to beauty salons.

**Project Location:** Citywide (City of Milpitas), County of Santa Clara.

**Project Proponent:** City of Milpitas, 455 East Calaveras Boulevard, Milpitas, CA 95035.

The City of Milpitas Environmental Impact Committee has reviewed the Environmental Impact Assessment for the above project based on the information contained in the Environmental Information Form and the Initial Study, the Committee finds that the project will have no significant impact upon the environment, as recommended in the EIA.

Copies of the E.I.A. may be obtained at the Milpitas Planning Department, 455 E. Calaveras Boulevard, Milpitas, CA 95035.

By: *Timothy J. Hughes*  
Planning Director Manager

By: *[Signature]*  
Project Planner

Approved by the Planning Commission / City Council

\_\_\_\_\_ day of \_\_\_\_\_, 2003

Forward to the County Clerk on this 28<sup>th</sup> day of May, 2003

By \_\_\_\_\_

A handwritten signature in dark ink, appearing to be "J. [unclear]", written over a horizontal line.





## ENVIRONMENTAL IMPACT ASSESSMENT NO: P-EA2003-6

Planning Division

455 E. Calaveras Blvd., Milpitas, CA 95035

(408) 586-3279

Prepared by: Troy Fujimoto May 27, 2003  
date

Title: Acting Associate Planner

1. Project title: Zone Text Amendment No. P-ZT2003-2
2. Lead Agency Name and Address: City of Milpitas, 455 East Calaveras Boulevard, Milpitas, CA 95035
3. Project location: Citywide
4. Project sponsor's name and address:  
City of Milpitas  
455 East Calaveras Boulevard  
Milpitas, CA 95035  
Contact: Troy Fujimoto (408-586-3287)
5. General plan designation: Citywide General Plan Designations      5. Zoning: Citywide Zoning Districts
6. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)  
See Attached
7. Surrounding land uses and setting: Briefly describe the project's surroundings:  
See Attached
8. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)  
N/A

### ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages:

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Aesthetics                    | <input type="checkbox"/> Agriculture Resources     | <input type="checkbox"/> Air Quality         |
| <input type="checkbox"/> Biological Resources          | <input type="checkbox"/> Cultural Resources        | <input type="checkbox"/> Geology / Soils     |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning |

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Mineral Resources           | <input type="checkbox"/> Noise                              | <input type="checkbox"/> Population / Housing     |
| <input type="checkbox"/> Public Services             | <input type="checkbox"/> Recreation                         | <input type="checkbox"/> Transportation / Traffic |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |   |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- ☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Date: 5/27/03

  
Planning Manager

  
Project Planner

A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project level, indirect as well as direct, and construction as well as operational impacts.

WILL THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact	
<b>I. AESTHETICS:</b>						
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17, 18
b) Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17, 18
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17, 18
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17, 18
<b>II. AGRICULTURE RESOURCES:</b> In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:						
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17,18
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17,18
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17,18

WILL THE PROJECT:	IMPACT					
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact	Source

<b>III. AIR QUALITY:</b> (Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations). Would the project:						
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
<b>IV. BIOLOGICAL RESOURCES:</b> Would the project:						
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish & Games or U.S. Fish & Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish & Games or U.S. Fish & Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17

WILL THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact	
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17,18
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17,18
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
<b>V. CULTURAL RESOURCES:</b> Would the project:						
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
<b>VI. GEOLOGY AND SOILS:</b> Would the project:						
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18

WILL THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact	

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	8, 11
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
<b>VII. HAZARDS AND HAZARDOUS MATERIALS:</b>						
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18

WILL THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact	
d) Be located on a site which is included on a list of hazardous materials compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17, 18
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17, 18
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
<b>VIII. HYDROLOGY AND WATER QUALITY:</b>						
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or situation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
d) Substantially alter the existing drainage						18

WILL THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact	
pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff as it relates to C3 regulations for development?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18,19
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17, 18
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
<b>IX. LAND USE AND PLANNING:</b>						
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17,18



WILL THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact	

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17,18
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
<b>X. MINERAL RESOURCES:</b>						
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
<b>XI. NOISE:</b>						
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
d) A substantial temporary or periodic in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18

WILL THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact	

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	12,17
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	12,17
<b>XII. POPULATION AND HOUSING:</b>						
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17, 18
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17, 18
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17, 18
<b>XIII. PUBLIC SERVICES:</b>						
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:  Fire protection?  Police protection?  Schools?  Parks?  Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	18
<b>XIV. RECREATION:</b>						

WILL THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact	
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have been an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
<b>XV. TRANSPORTATION/TRAFFIC:</b> Would the project:						
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17, 18
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	12, 17, 18
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17, 18
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17, 18

WILL THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact	

g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
<b>XVI. UTILITIES AND SERVICE SYSTEMS:</b> Would the project:						
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18

WILL THE PROJECT:	IMPACT					Source
	Cumulative	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant impact	No impact	

XVII. MANDATORY FINDINGS OF SIGNIFICANCE:						
a) Does the project have the potential to <i>degrade the quality of the environment</i> , substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or pre-history?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10,18, 19,20, 26
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	11,12, 17,18, 19,20, 21,22
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	9,11,12 ,18

**ENVIRONMENTAL IMPACT ASSESSMENT**  
**SOURCE KEY**

1. Environmental Information Form submitted by applicant
2. *Project plans*
3. Site Specific Geologic Report submitted by applicant
4. Traffic Impact Analysis submitted by applicant
5. Acoustical Report submitted by applicant
6. Archaeological Reconnaissance Report submitted by applicant
7. Other EIA or EIR (appropriate excerpts attached)
8. Alquist-Priolo Special Studies Zones Maps
9. BAAQMD Guidelines for Assessing Impacts of Projects and Plans
10. Santa Clara Valley Water District
11. Milpitas General Plan Map and Text
12. Zoning Ordinance and Map
13. Aerial Photos
14. Register of Cultural Resources in Milpitas
15. Inventory of Potential Cultural Resources in Milpitas
16. Field Inspection
17. Planner's Knowledge of Area
18. Experience with other project of this size and nature
19. Flood Insurance Rate Map, September 1998
20. June 1994 Water Master Plan
21. June 1994 Sewer Master Plan
22. July 2001, Storm Master Plan
23. Milpitas Midtown Specific Plan Map and Text
24. Bikeway Master Plan
25. Trails Master Plan
26. Other\_\_\_\_\_

**CITY OF MILPITAS ZONE TEXT AMENDMENT NO. P-ZT2003-2,  
ENVIRONMENTAL IMPACT ASSESSMENT (EIA NO. P-EA2003-6)  
INITIAL STUDY**

**Project Description**

The proposed Zoning Text Amendment No. P-ZT2003-1 (Ordinance No. 38.762), provides clarifications related to massage uses in the City of Milpitas. The zone text amendment will clarify that massage uses will be an accessory use throughout the City (in all zoning districts) to permitted and conditional permitted uses including medical offices, medical clinics, chiropractic and acupuncture practices, physical therapy, fitness and athletic facilities, health care facilities, beauty salons, and accredited schools, colleges and universities.

Overall the Zone Text Amendments will tighten zoning regulations in regards to massage uses and will clarify how and where they are already being allowed in the City. The proposed amendment will not change where they can or cannot be permitted in the City, thus, it will not bring any new impacts to the City.

**Project Location**

The proposed Zone Text Amendments would affect all zoning districts throughout the City of Milpitas, (approximately 13.64 square miles) including: CO (Administrative and Professional Office), C1 (Neighborhood Commercial), C2 (General Commercial), HS (Highway Services), TC (Town Center), M1 (Light Industrial), M2 (Heavy Industrial), MP (Industrial Park), MXD (Mixed Use), R1 (Single Family), R2 (One and two-family), R3 (Multiple-family), R4 (Multi-Family Very High), R1-H (Single family hillside), A (Agriculture), and POS (Park/Public open space). The City is generally bounded by the City of San Jose to the east and south, the City of Fremont to the north and County of Santa Clara unincorporated land to the west.

The general makeup of the city includes mostly single-family residential uses in the western half of the City, industrial uses to the south, southwest and northwest and commercial uses to the south and west and interspersed throughout the residential areas. Major thoroughfares include Interstates 680 and 880 running north to south and State Highway 237 running east to west.

**Responses Needing Clarification & Responses to Less than Significant Impacts**

*Listed below are responses to all answers which need clarification or were checked "Less Than Significant" on Part II of this Initial Study. Responses here, are presented in the same order in which they appear on the checklist:*

**Public Services**

**Response to Question 13a:**

*"Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios,*

*response times or other performance objectives for any of the public services: Fire protection? Police protection? Schools? Parks? Other public facilities?"*

Massage applications require further investigations by the Police Department, as such it could impact police services in other aspects if time is taken for background research for massage applications. However, the proposed ordinance amendment is only clarifying current practices within the City. Massage as an accessory use is already being allowed throughout the City (in all zoning districts) to permitted and conditional permitted uses including medical offices, medical clinics, chiropractic and acupuncture practices, physical therapy, fitness and athletic facilities, health care facilities, beauty salons, and accredited schools, colleges and universities. The ordinance amendment will not make massage uses any more attractive than previous and will not make the procurement of permits any less stringent, as such, it is not expected that the City will get any increase of new applications, thus, this can be considered a less than significant impact.